



**Billing Code: 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R2–ES–2020–N020; FXES11140200000F2–201–FF02ENEH00]**

**Proposed American Burying Beetle Habitat Conservation Plan and Low-Effect Screening Form; NS-374 Bridge Over Leader Creek, Hughes County, OK**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of several documents related to an incidental take permit (ITP) application under the Endangered Species Act of 1973, as amended. Circuit Engineering District #4 applied for the requested ITP, which would be in effect for a 3-year period in Hughes County, Oklahoma. If granted, the permit would authorize American burying beetle incidental take resulting from construction of a bridge and off-set alignment of the road over Leader Creek. The documents available for comment include the low-effect screening form that supports a categorical exclusion under the National Environmental Policy Act of 1969, a draft low-effect habitat conservation plan, and the ITP application.

**DATES:** To ensure consideration, written comments must be received or postmarked on or before 11:59 p.m. eastern time on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. We may not consider any comments we receive after the closing date in the final decision on this action.

**ADDRESSES:** *Accessing Documents:*

- **Internet:** NEPA screening form, HCP, and the permit application: You may

obtain electronic copies of these documents at

<https://www.fws.gov/southwest/es/oklahoma/>

- **U.S. Mail:** You may obtain the documents at the following addresses. In your request for documents, please reference “NS-374 Bridge over Leader Creek HCP.”
  - Draft CatEx form and HCP: A limited number of CD-ROM and printed copies of the Draft CatEx form and HCP are available, by request, from the Field Supervisor, Oklahoma Ecological Services Field Office (ES FO), U.S. Fish and Wildlife Service, 9014 E. 21st St., Tulsa, OK 74129; telephone 918-382-4504; fax 918-581-7467.
  - ITP application: The ITP application is available by mail from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103, Attention: Environmental Review Branch.

***Submitting Comments:*** Regarding any of the documents available for review, you may submit written comments by one of the following methods. In your comments, please reference “NS-374 Bridge over Leader Creek HCP.”

- **Email:** OKES\_NEPA@fws.gov.
- **Fax:** 918-581-7467.
- **U.S. mail:** Field Supervisor, Oklahoma ES FO (see ***Accessing Documents***).

We request that you send comments by only one of the methods described above.

**FOR FURTHER INFORMATION CONTACT:** Jonna Polk, by U.S. mail at the Oklahoma ES FO (see ***Accessing Documents***), or by phone at 918-581-7458.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8337 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** Section 9 of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take/the enhancement of survival of listed/candidate species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing such take of endangered and threatened/candidate species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

### **Background**

Circuit Engineering District #4 has applied to the U.S. Fish and Wildlife Service (Service) for an ITP under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested ITP, which would be in effect for a period of 3 years, if granted, would authorize incidental take of the American burying beetle. The proposed incidental take would result from activities associated with otherwise lawful activities, including building a new bridge and off-set road alignment of the road across Leader Creek.

We have determined the proposed action qualifies as a low-effect habitat conservation plan (HCP) and is categorically excluded from the NEPA process. The proposed incidental take would occur along 1.88 acres (ac) where County Road NS–374

crosses Leader Creek near the town of Atwood in Hughes County, Oklahoma, as a result of activities associated with the applicant's construction activities. Such actions may require disturbance within potential American burying beetle habitat. Circuit Engineering District #4 has proposed to mitigate the impacts to 0.75 ac of suitable American burying beetle habitat, including 0.5 ac of permanent cover change impacts and 0.25 ac of permanent change. These habitat acres will be mitigated in perpetuity according to Service approved mitigation ratios through purchasing credits at an approved conservation bank. Avoidance and minimization measures to reduce impacts to the American burying beetle include reducing motor vehicle, machinery, and heavy equipment use areas, reducing soil erosion, increasing soil stability, providing education to on-site personnel, limiting the use of artificial lighting, and preventing invasive species establishment.

### **Next Steps**

We will evaluate the HCP and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will also evaluate whether issuance of a section 10(a)(1)(B) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether to issue an ITP. If all necessary requirements are met, we will issue the ITP to the applicant.

### **Public Availability of Comments**

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other

personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

**Authority**

We provide this notice under the authority of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

**Amy L. Lueders,**

*Regional Director, Southwest Region,*

*U.S. Fish and Wildlife Service.*